IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6837 OF 2005

The Maharashtra State
Co-operative Bank Ltd. ..Petitioner.

Vs.

The State of Maharashtra & Ors. ..Respondents.

....

Mr.A.E.Deshmukh for the Petitioner.

Mr.Y.D.Mulani, AGP for the State.

....

CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

27th October, 2005.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner bank had applied to Respondent No.2 under Section 107 of the Maharashtra Co-operative Societies Act, 1960 for initiating recovery proceedings. It is the case of the Petitioner that it has claim against the bank in liquidation viz. Solapur District Industrial Co-operative Bank Limited in respect of whom a

Liquidator has been appointed. That application is rejected by a communication dated 18th January, 2005 for the reasons set out therein. It is on the basis of this, the Petitioner has approached this Court.

3. On consideration of the impugned order dated 18th January, 2005, we find that the reasons given are totally extraneous. All that the Petitioner is seeking permission to file a suit as the Liquidator has been appointed. The Petitioner is entitled to initiate proceedings for the purpose of ascertaining its dues, which dues thereafter in the process of distribution, can be distributed on the basis of dues of secured and unsecured creditors. In the light of that, we find that the impugned order dated 18th January, 2005 is totally without jurisdiction and at any rate the rejection is based on the considerations which are totally extraneous for the grant of permission.

4. In the light of that, rule made absolute in terms of prayer clause (b). There shall be no order as to costs.

(F.I. REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)